

REMARKS

In the Office Action dated March 11, 2005, the Examiner first noted that the Specification, at Page 1, Line 24, included a listing of references, the listing not being a proper information disclosure statement per 37 C.F.R. 1.98(b). The Applicants thank the Examiner for this notification; accordingly, the Applicants hereby submit a proper information disclosure statement per 37 C.F.R. 1.98(c) (with fee), not including the references cited by the Examiner on form PTO-892, along with this Response to Office Action.

Also in the Office Action, the Examiner rejected Claims 1-9. More specifically, the Examiner rejected Claims 5 and 8 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention.

The Examiner rejected Claims 1-7 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,411,581 to Niewold ("Niewold"). Additionally, independent Claim 8 was rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,029,436 to Fredriksen et al. ("Fredriksen"). Finally, the Examiner rejected Claim 9 under 35 U.S.C. 103(a) as being unpatentable over Fredriksen in view of Niewold. In light of the foregoing claim amendments and following Remarks, the Applicants respectfully request reconsideration and allowance of pending Claims 1-9.

Rejection of Claims 1-7 under 35 U.S.C. 102(b) (Niewold):

The Examiner rejected Claims 5 and 8 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter with the Applicants regard as their invention.

Accordingly, with respect to Claim 5, Line 5, the Applicants have amended the claim to clarify that the axis is common to the upper, intermediate, and lower sections. Additionally, with respect to Claim 8, the Applicants have amended the preamble of the claim to clarify that an unloading system is being claimed and not a combine in

combination with an unloading system. It is thus hereby submitted that Claims 5 and 8 are in compliance with 35 U.S.C. 112, second paragraph.

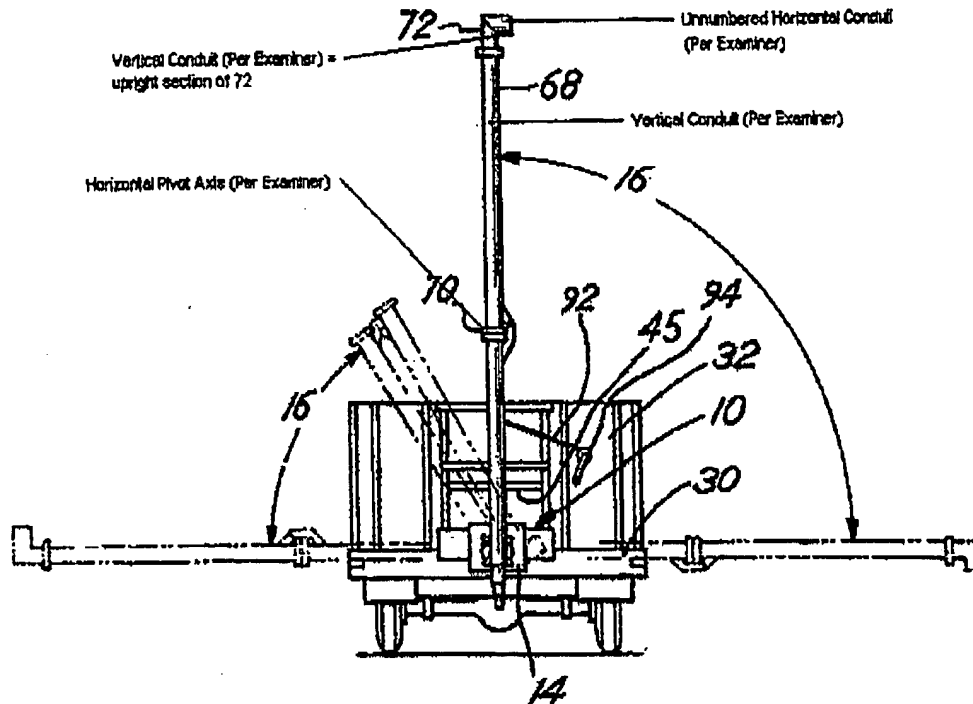
Rejection of Claims 1-7 under 35 U.S.C. 102(b) (Niewold):

The Examiner rejected Claims 1-7 as being anticipated by Niewold. In light of the above amendments to independent Claims 1 and 4 and the following Remarks, the Applicants respectfully request reconsideration and allowance of Claims 1-7.

Independent Claims 1 and 4 have been amended to more particularly point out and clarify what the Applicants view as the invention. More specifically, independent Claims 1 and 4 have been amended to clarify that the unloading conduit assembly of the present invention includes a vertical conduit and a horizontal conduit mounted on top of the vertical conduit, the horizontal conduit having an extent greater than an extent of said vertical conduit. As ample support exists for this amendment in at least Figs. 1, 2, 6, 10, and 11, no new matter has been added. Claim 4 has additionally been amended to change the word "radial" to "radius" so the claim reads more clearly.

In contrast to the present invention, Niewold does not disclose a system for unloading harvested product from an agricultural combine, wherein the system includes a conduit assembly having a vertical conduit and a horizontal conduit mounted thereon, the horizontal conduit having a greater extent than the extent of the vertical conduit. Instead, as detailed on Page 3 of the Office Action and as illustrated in the below diagram, Niewold discloses a system 16 for unloading grain comprising an unloading conduit assembly 16, vertical conduit 68, 72 and a horizontal conduit (unnumbered—seemingly the outermost portion of 72 that is perpendicular to the vertical conduit portion of 72). Further according to the Examiner, the vertical conduit 68, 72 of Niewold extends upward from a storage tank 12 and a horizontal conduit extends radially from the vertical

conduit 68, 72, wherein the vertical conduit 68, 72 pivots sideways about a horizontal pivot axis 70, 76, 78.



In light of the Examiner's interpretation of Niewold and the above illustrative diagram, it is clear that Niewold does not disclose or contemplate inclusion of a conduit assembly having horizontal conduit mounted on top of a vertical conduit, the horizontal conduit having an extent greater than an extent of said vertical conduit. Accordingly, the Applicants hereby submit that independent Claims 1 and 4 are distinguishable from Niewold and are thereby patentable and in condition for allowance. Additionally, Claims 2-3 and 5-7, which depend from independent Claims 1 and 4, respectively, are also believed to be in condition for allowance as depending from allowable base claims. Favorable action and allowance of Claims 1-7 is therefore respectfully requested.

Rejection of Claim 8 under 35 U.S.C. 102(b) (Fredriksen):

The Examiner rejected independent Claim 8 as being anticipated by Fredriksen. In light of the following Remarks, the Applicants respectfully request reconsideration and allowance of Claim 8. The Applicants wish to note that Claim 8 has been amended to comply with 35 U.S.C. 112, second paragraph (as discussed above) and to change the words "graph" to -grain— and "radial" to -radius— so the claim reads more clearly.

First, the Applicants wish to thank Examiner Adams for taking time out of his schedule to participate in a May 10, 2005 telephone interview; the Applicants are extremely appreciative. During the interview, the Applicants briefly discussed Claim 8 with the Examiner; the Applicants noted that an element from Claim 8, which is purportedly disclosed by Fredriksen, is missing.

More specifically, Claim 8 discloses an agricultural combine including a threshing assembly for supplying grain to a grain tank and a system for unloading grain from said combine, the system comprising a loop conveyor assembly for conveying grain from the threshing assembly to the grain tank or to an unloading conduit assembly, the unloading conduit assembly including an unloading conduit for receiving grain from the loop conveyor and conveying it to a truck or the like located on any radius horizontally around the combine, the unloading conduit including a horizontal conduit which is retractable into an unoperative, stored position on the combine.

Thus, the unloading system of the present invention permits the loop elevator assembly to deliver grain to either a grain bubbler assembly or an unloading conduit assembly so that when the unloading assembly is operating to unload grain, the grain delivered to the loop elevator assembly goes directly into the unloading conduit assembly. When the unloading conduit assembly is not operating, the loop elevator assembly diverts grain into the bubbler assembly, which "bubbles" the grain upwardly

into the tank. (See Specification, Page 5, Line 23 – Page 6, Line 3.) Thus, when the combine is unloading, all grain contemporaneously harvested is elevated by the loop conveyor directly to the unloading conduit assembly—it does NOT first go to the tank.

In contrast, Fredriksen does not disclose, contemplate, or teach the unloading conduit of the present invention, which can receive grain directly from the loop conveyor instead of only the tank. For example, as disclosed at Column 3, Lines 20-36, Fredriksen only discloses that:

[t]he threshed grain/chaff mixture is supplied through elevators 20 and 22 to a saddle unit 21. . . . The saddle unit 21 has distributing screws 23 for supplying the products uniformly to a preparation bottom 24. From there the harvested product is supplied to a wind sieve device 25 of a known construction. *The cleaned grain is then transported by a transverse feeding screw 26, an elevator 27 and a further upper transverse feeding screw 28 to a known saddle tank 29* disclosed for example in U.S. Pat. No. 3,108,703. *Through screws 32, vertical conveyors 33 and discharge pipe 34 the grain is withdrawn at the tank bottom* in both lateral pockets 30 and 31 as known. The chaff is discharged through a central throwing hood 35 to the field.

It is thus clear that Fredriksen only discloses and teaches that its conduit assembly must pull harvested grain from the tank bottom—receiving grain directly from a loop conveyor, as disclosed by the present invention, is not an option. Accordingly, it is hereby submitted that independent Claim 8 is distinguishable from Fredriksen and is thereby patentable and in condition for allowance. Favorable action and allowance of Claim 8 is therefore respectfully requested.

Rejection of Claim 9 under 35 U.S.C. 103(a) (Fredriksen in view of Niewold):


The Examiner rejected Claim 9 as being obvious over Fredriksen in view of Niewold. In light of the foregoing Remarks regarding Claim 8, the Applicants respectfully disagree.

In light of the above comments regarding Claim 8, it is clear that Fredriksen fails to disclose an unloading conduit assembly that includes an unloading conduit for receiving grain directly from the loop conveyor. Likewise, Niewold, which is cited in an attempt to show a vertical conduit that pivots sideways, also does not disclose the novel unloading conduit of Claim 8. Thus, Claim 8 is patentable and in condition for allowance. Accordingly, Claim 9, which depends from Claim 8, is also in condition for allowance as being dependent upon an allowable base claim. Favorable action and allowance of Claim 9 is therefore respectfully requested.

In summary, it is believed that: Claims 1-7 are distinguishable over Niewold; Claim 8 is distinguishable over Fredriksen; and Claim 9 is non-obvious over Fredriksen in view of Niewold. Accordingly, it is believed that Claims 1-9 are in condition for allowance. The USPTO is authorized to charge a fee of \$180.00 for the attached information disclosure statement as well as any amount deemed necessary, or credit any overpayment, to secure entry of this Response to Office Action to CNH America LLC Deposit Account Number 03-1025.

If the Examiner has any further requirements or suggestions for placing the present claims in condition for allowance, Applicants' undersigned attorney would appreciate a telephone call at the number listed below.

Respectfully submitted,



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